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To: Chad Schulze
cc
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Subject: The school says they were going to plan non-commercial tree species there

They only had it cut because Weyerhaeuser said when they logged the trees above the school, the trees (mostly Maple) on the school property would be blown down (windthrow) so Weyco offered to cut the school's 3-5 acre buffer while they were there. Obviously from the pictures I just sent, this steep hillside will slide right down on the buildings if no trees are growing there to hold the soil on the steep slope. One of the Maintenance board people didn't like the Maples because of leaves falling on the rooftops of the classroom building. The school property involved here is not being maintained as forest in the normal sense, it is just that trees do grow there.

TRIANGLE LAKE SCHOOL IS NOT IN THE BUSINESS OF GROWING TIMBER FOR PROFIT, BUT IS IN THE BUSINESS OF PROTECTING AND EDUCATING CHILDREN.

I still think this is an outrageous use of dangerous chemicals right next to a couple hundred innocent school children.

The operator and the school can still be held responsible for any damage to health of the children (teachers, staff, parents, Grange attendees, the doctor whose clinic is there, and to any visitors to his clinic) from volatilization of these chemicals as shown here in a recent ruling in a case of volatilization drift being allowed as a cause of action for damages:

http://www.santacruzsentinel.com/localnews/ci_16923054

Appeals court: Organic farm can seek damages from pesticide company

By Kurtis Alexander -- Santa Cruz Sentinel

Posted: 12/22/2010 07:34:16 PM PST

SAN JOSE - Four years ago, the president of Jacobs Farm/Del Cabo, Larry Jacobs, received an unfortunate phone call from Whole Foods. The retail giant notified him that it was rejecting the organic dill

he had sold the chain because his culinary herb had tested positive for pesticides.

"I said that's not possible," Jacobs remembered this week. "I haven't sprayed pesticides since I got sick spraying pesticides 40 years ago."

As it turns out, Jacob's 120-acre herb farm, just north of Santa Cruz in Wilder Ranch State Park, was victim of a hard-to-detect but relatively simple scientific action: Pesticides applied in liquid form to nearby Brussels sprouts later volatilized and carried as a vapor, through wind or fog, to Jacob's dill.

This week, California's Sixth Appellate District Court upheld Jacob's right to sue the pesticide applicator, Western Farm Service, and let stand the \$1 million award a jury handed Jacobs two years ago. The ruling becomes final in 30 days.

"We're glad that the appellate court saw it the way we did," Jacobs said.

The decision is significant, say agriculture and law experts, because it strengthens the case for organic farmers or anyone else harmed by pesticides to seek legal recourse - even if the pesticide, as it was here, is legally applied.

While state law restricts pesticides from being sprayed on neighboring properties, which is known as pesticide drift, the law doesn't deal specifically with pesticides

that disperse into the air after application and end up someplace else.

Attorneys for Western Farm Service argued that since the company had not run afoul of state law, Jacobs Farm did not have the right to sue.

The Court of Appeal, in its 32-page ruling filed Monday, dismissed this argument. The panel claimed the jury could hold the pesticide company liable for tainting the organic crops at Jacobs Farm.

Western Farm Service, which is now part of the larger Colorado-based Crop Production Services, declined to comment for this story, citing difficulty reaching their attorneys over the holiday week.

But in 2008, after the Santa Cruz jury issued the initial verdict against the company, an attorney for Western Farm Services told the Sentinel the decision would "impose a serious burden and concern to the industry."

The attorney maintained that a seller or sprayer of pesticide should not be held responsible for what happens days or weeks after chemicals are safely applied.

The favorable ruling for Jacobs didn't come easy. After getting the phone call from Whole Foods in October of 2006, the longtime grower started doing a little detective work.

He tested herbs he grew on other properties along the coast and came to the conclusion that the recent pesticide contamination was limited to his Wilder Ranch farm. Next, he combed public records to see what pesticides were being used within five miles of the property. Finally, he used the Internet to figure out which pesticides might be prone to travel by air.

"It didn't take more than half an hour to find several papers on the movement of these materials and their volatilization," Jacobs recalled. "It wasn't hard to make the connection."

That November, Jacobs reported his findings to the Santa Cruz County Agricultural Commissioner. But the office, which has the responsibility of enforcing state pesticide laws, found that Western Farm Service

had not acted outside the law when spraying and, as such, would not be penalized.

In 2008, Jacobs took his case to court.

The county's Deputy Agricultural Commissioner Lisa LeCoup said this week's court decision against Western Farm Services changes the ground rules, making it clear that a sprayer can now be held liable even if no law is broken.

Jacobs said Tuesday he's glad the issue is behind him.

"It's no one's fault. Everyone was trying to do the right thing here," he said. "All we want is to be able to grow our crop and harvest it. That's all."